

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	MP	10/05/19
Planning Development Manager authorisation:	SCE	10.5.19
Admin checks / despatch completed	<i>me</i>	10/05/19

Application: 19/00396/FUL

Town / Parish: Clacton Non Parished

Applicant: Michael Wagland

Address: Land adjacent 2 Harrow Road Clacton On Sea

Development: Proposed erection of 2 bedroom house with attic studio.

1. Town / Parish Council

Clacton – Non Parished.

2. Consultation Responses

ECC Highways Dept

As this is an existing dwelling with a driveway the use of the vehicular access is established. However, currently the access is unsuitable as a vehicular access and will require improvements to make it suitable to serve the proposed residential development. The Essex Design Guide was refreshed and re-issued in February 2018 and the recommended the access improvements are conditioned below. From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to the following conditions:

1. The existing access at (in front of the proposed dwelling) shown on the proposed floor plans and elevations plan (drawing no. Har/02/rev b) shall be suitably and permanently closed incorporating the reinstatement to full height of the footway immediately and before the dwelling is first occupied.

Reason: To ensure the removal of and to preclude the creation of unnecessary points of traffic conflict in the highway in the interests of highway safety in accordance with policy DM1

2. Any new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay.

Reason: To ensure that the future outward growth of the planting does not encroach upon the highway or interfere with the passage of users of the highway, to preserve the integrity of the highway and in the interests of highway safety and in accordance with Policy DM1.

3. Cycle parking shall be provided in accordance with the EPOA Parking Standards The approved facility shall be secure, convenient, covered and provided prior to occupation of the proposed dwelling hereby permitted site and shall be maintained free from obstruction at all times for that sole purpose in perpetuity.

Reason: To ensure appropriate cycle parking is provided in the

interest of highway safety and amenity in accordance with Policy DM8.

4. Prior to first occupation of the proposed dwelling, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport, approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator free of charge.

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10.

5. Areas within the curtilage of the site for the purpose of the reception and storage of building materials shall be identified clear of the highway.

Reason: To ensure that appropriate loading / unloading facilities are available to ensure that the highway is not obstructed during the construction period in the interest of highway safety in accordance with policy DM1

The above conditions are to ensure that the proposal conforms to the relevant policies contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Informative 1: In main urban areas with frequent and extensive public transport, cycling and walking links, the EPOA Parking Standards recommend that a reduced parking standard provision may be applied to residential developments. A reduced parking standard provision level can be applied to this proposal as it is located very close to regular public transport services and public car parking facilities.

Informative 2: Steps should be taken to ensure that the Developer provides sufficient turning and off-loading facilities for delivery and site worker vehicles, within the limits of the site together with an adequate parking area for those employed in developing the site.

Informative 3: On the completion of the Development, all roads, footways/paths, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area it covers and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

Informative 4: Any work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at: development.management@essexhighways.org or by post to:

SMO1 ' Essex Highways
Colchester Highways Depot,
653 The Crescent,
Colchester.

CO4 9YQ.

UU Open Spaces

Response from Public Realm
Open Space & Play

Application Details

Application No: 19/00396/FUL

Site Address: Land adjacent 2 Harrow Road Clacton on Sea Essex

Description of Development: Proposed erection on 2 bedroom house
with attic studio.

Current Position

There is currently a deficit of 41.08 hectares of play in the
Clacton/Holland area. This is broken down as follows:

Recommendation

Although there is a deficit of play space in Clacton/Holland, it is not
felt that this development would impact the current deficit.

Building Control and
Access Officer

No comments at this stage.

3. Planning History

11/00198/FUL	1 bedroom house.	Refused	19.04.2011
11/00680/FUL	1 bedroom house.	Refused	15.08.2011
11/01148/FUL	1 bedroom house.	Refused	22.11.2011
12/00174/FUL	One bedroom house.	Approved	
13/00939/OUT	Construction of a new house.	Refused	24.09.2013
13/01290/OUT	One bedroom maisonette.	Withdrawn	21.01.2014
16/00113/FUL	Erection of an architectural studio.	Approved	23.03.2016
16/01406/DISCON	Discharge of Conditions 2 (Materials) and 3 (Parking/Bicycle Storage)	Approved	
17/00131/DISCON	Discharge of Conditions 2 (Materials) 3 (Bicycles), 5 (CMS) of Planning Permission 16/00113/FUL.	Approved	16.02.2017
17/00226/FUL	Variation of condition 2 of 16/00113/FUL. Reduction to the	Approved	17.05.2017

width of windows to allow timber cladding to match the windows of the rear elevation and increase the height of the building and the single storey element to front.

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

EN6A Protected Species

EN11A Protection of International Sites European Sites and RAMSAR Sites

HG3 Residential Development Within Defined Settlements

HG9 Private Amenity Space

HG14 Side Isolation

COM6 Provision of Recreational Open Space for New Residential Development

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017)

HP5 Open Space, Sports & Recreation Facilities

LP1 Housing Supply

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

CP1 Sustainable Transport and Accessibility

PPL4 Biodiversity and Geodiversity

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

Local Planning Guidance

Status of the Local Plan

The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2018) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) was examined in January and May 2018 and the Inspector's initial findings were published in June 2018. They raise concerns, very specifically, about the three 'Garden Communities' proposed in north Essex along the A120 designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033. Further work is required to address the Inspector's concerns and the North Essex Authorities are considering how best to proceed.

With more work required to demonstrate the soundness of the Local Plan, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications. The examination of Section 2 of the Local Plan will progress once matters in relation to Section 1 have been resolved. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 48 of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.

In relation to housing supply:

The NPPF requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years' worth of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not. At the time of this decision, the supply of deliverable housing sites that the Council can demonstrate falls below 5 years and so the NPPF says that planning permission should be granted for development unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework as a whole. Determining planning applications therefore entails weighing up the various material considerations. The housing land supply shortfall is relatively modest when calculated using the standard method prescribed by the NPPF. In addition, the actual need for housing was found to be much less than the figure produced by the standard method when tested at the recent Examination In Public of the Local plan. Therefore, the justification for reducing the weight attributed to Local Plan policies is reduced as is the weight to be given to the delivery of new housing to help with the deficit.

5. Officer Appraisal

Site Description

The site is located on the southern side of Harrow Road, 30m east of the junction with Wellesley Road and is within the Settlement Development Boundary for Clacton on Sea. The site includes some hardstanding and some lawn to the rear. The site is bounded by a terrace of 3 no. two-storey houses to the east and Cycle Mart to the west.

Description of Proposal

This application seeks planning permission for the erection of an end of terrace dwelling, serving two bedrooms and a studio to the attic.

Planning History

The site has been the subject of a number of applications concerning the erection of a single dwelling which have been refused and in the case of one application dismissed at appeal. The reasons for refusal have related to the loss of parking/amenity for the existing flats at 130 Wellesley Road and the lack of suitable amenity space for the proposed dwelling.

In 1987 permission was granted for 3 x 1 bedroom flats at 130 Wellesley Road. The plans show that the application site was to be used for parking and amenity space in connection with the occupation of the new flats.

At appeal the planning inspector confirmed that, in terms of parking the development of the site would not lead significant additional pressures on parking and nor would there be significant consequential highway safety risks. However, the inspector did agree that the development would result in the loss of amenity space for current residents of the flats and a poor level of amenity for future occupants of the dwellings.

Under planning reference 16/00113/FUL, planning permission was granted for the erection of an architectural studio to the end of a row of terraced houses, which comprised of a studio area and kitchenette at ground floor with a further studio area facilitated within a mezzanine area at first floor level.

Assessment

1. Principle of Development/Planning History

The site is located within the settlement development boundary of Clacton-on-Sea as established in both the saved Tendring District Local Plan (2007) and the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017). Furthermore, the site is located within an area of mixed residential and commercial uses and is not designated for any particular use. Consequently the use of the site for residential would not be unacceptable in principle, subject to other material planning considerations discussed below.

2. Design/Layout

The adopted Tendring District Local Plan (2007) "Saved" Policies QL9, QL10 and QL11 seek to ensure that all new development makes a positive contribution to the quality of the local environment and character, by ensuring that proposals are well designed, relate satisfactorily to their setting and are of a suitable scale, mass and form. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

The proposed building would follow the pitch and form of the existing row of terrace housing to the east. Due to the form and position of the openings the new dwelling would take on a contemporary appearance whilst retaining the proportions of the terrace dwelling adjacent. This approach is acceptable, while the use of red brick and blue slate is also in-keeping in this location, ensuring the overall design relates appropriately to the character of the area.

Policy HG9 of the Adopted Local Plan states that for a property with two bedrooms there should be a minimum of 75sqm of private amenity space. The preamble within that policy defines private amenity space as an area that comprises a private outdoor sitting area not overlooked by adjacent or opposite living rooms or outdoor sitting areas.

Within an earlier appeal decision at this site (appeal reference APP/P1560/A/12/2175988) for a one bedroom property, the Inspector stated "*the resulting dwelling would only have access to the*

very small yard to the rear of approximately 40sqm. Whereas the other Harrow Road properties have reasonably long rear gardens, the proposed space would be severely truncated and completely overlooked by the rear windows of the flats at No 130 Wellesley Road." This application is broadly similar but will include two bedrooms, ensuring there is a greater loss of required amenity space. Given this, and that the amenity area will be severely overlooked by surrounding properties, the proposal fails to adhere to the above policies to the detriment of future occupiers.

Within earlier applications, concerns were also raised with regard to the loss of amenity space to flats associated with 130 Wellesley Road, which was also under the applicant's ownership. The connection between this site and the flats at 130 Wellesley Road is emphasised through the planning permission for those flats (TEN/626/87). This planning application showed large parts of the current application site as being amenity area to the flats. However, the applicant has since confirmed that they no longer own this site, and instead only own the land subject to this application. Therefore, while it is noted the proposal would result in a loss of some of the land previously shown as an amenity area for 130 Wellesley Road, given the ownership arrangements it would not be possible for this site to now be used for that use. In any case the application site is demarcated by a 1.8m high close boarded fence and 2m high gates, ensuring it is not available for use as an amenity area. Therefore, on balance, the loss of amenity to residents of 130 Wellesley Road is not considered to be significantly harmful and does not form part of the refusal reason for this decision.

3. Impact upon neighbours

Policy QL11 of the Saved Plan states that amongst other criteria, 'development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

The proposed dwelling would simply extend out the exterior walls of the adjoining terrace dwelling. Consequently, the impact upon the outlook or light received by local residents would be suitably retained by the development. In terms of overlooking, while it is noted the rear first and second floor windows will have views to the amenity area of 2 Harrow Road to the east and 130/128 Wellesley Road to the south-west, these areas are already overlooked and the proposal will not significantly add to this to the extent a refusal reason is warranted.

4. Highway Safety

Essex County Council Highways have no objections to the development subject to conditions relating to the existing access being permanently closed, any new boundary planting being a minimum of 1m from the highway and bicycle storage provision being provided on site. A further condition relating to a Residential Travel Information Pack was requested, however given the minor nature of the development proposed this condition would not have been included had the application been recommended for approval.

Within an earlier appeal decision at this site for a dwelling (appeal reference APP/P1560/A/12/2175988) the Inspector stated "*it would also allow removal of the crossover and additional on-street space to be freed up*" . . . "*Overall I do not consider that the proposal would lead to significant additional pressures on parking. Nor would there be significant consequential highway safety risks associated with increased instances of dangerous or obstructive parking, such as on yellow lines, at road junctions, on footways or across driveways, to the detriment of the free and safe flow of traffic.*"

Therefore, while no parking is proposed on the plot itself, the removal of the dropped kerb will allow for one space to the site frontage which has previously been considered acceptable. Further the site is also located within a sustainable location in close proximity to local transport links. For these reasons and due to the small-scale nature of the development the lack of parking provision is considered to be, on balance, acceptable.

5. Legal Obligations

Policy COM6 of the adopted Tendring District Local Plan 2007 states "For residential development below 1.5 hectares in size, developers shall contribute financially to meet the open space requirements of the development in proportion to the number and size of dwellings built".

However the Council's Open Spaces Team has confirmed that although there is a deficit of 41.08 hectares of play and open space in Clacton/Holland, it is not felt that this development would have a significant impact on the current deficit. Therefore no contribution would be sort on this occasion.

6. Habitat Regulations Assessment

Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a Special Protection Area must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation. A proportionate financial contribution has not been secured in accordance with the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) requirements. As submitted, there is no certainty that the development would not adversely affect the integrity of Habitats sites.

The proposal is therefore considered to be contrary to Policies EN6 and EN11a of the Saved Tendring District Local Plan 2007 and Policy PPL4 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

Other Considerations

Clacton is non-parished so no comments are required.

There have been no other letters of representation received.

6. **Recommendation**

Refusal.

7. **Reasons for Refusal**

- 1 Paragraph 38 of the National Planning Policy Framework (NPPF) states that planning should seek to secure developments that will improve the economic, social and environmental conditions of the area. Furthermore, at paragraph 124 the NPPF confirms that one of the core planning principles is to always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

Saved Policy QL10 of the Tendring District Local Plan (2007) requires that all new development should meet functional requirements. In particular the policy states that planning permission will only be granted if; provision is made for functional needs including private amenity space, waste storage, separation and recycling facilities and cycle parking. Saved Policy HG9 regarding private amenity space stipulates that a two bedroom property should be provided with a minimum of 75 square metres of private amenity space. Emerging policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) again reflects these requirements.

In this instance the proposal demonstrates a private amenity area of 40 square metres. This falls well short of the minimum requirement of 75 square metres as required by Policy HG9 of the Adopted Local Plan. Given this, and that the amenity area itself will be severely overlooked by surrounding properties, the proposal fails to adhere to the above policies to the serious detriment of future occupiers residential amenity.

- 2 Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a Special Protection Area must provide

mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation. A proportionate financial contribution has not been secured in accordance with the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) requirements. As submitted, there is no certainty that the development would not adversely affect the integrity of Habitats sites.

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8. Informatives

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.